

2006

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Health)

## Health Legislation Amendment Bill 2006 (No 2)

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## **Health Legislation Amendment Bill 2006 (No 2)**

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### **A Bill for**

An Act to amend the law relating to health, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Health Legislation Amendment Act 2006 (No 2)*.

3 **2 Commencement**

- 4 (1) This Act, other than schedule 1, commences on the 28th day after its  
5 notification day.

6 *Note* The naming and commencement provisions automatically commence on  
7 the notification day (see Legislation Act, s 75 (1)).

- 8 (2) Schedule 1 commences on the day after this Act's notification day.

- 9 (3) However, a date or time provided by a special commencement  
10 provision for an amendment made by this Act has effect, or is taken  
11 to have had effect, as the commencement date or time of the  
12 amendment.

- 13 (4) In this section:

14 *special commencement provision*, for an amendment made by this  
15 Act, is a provision, in brackets beginning with the text  
16 'commencement:', at the end of the amendment.

17 **Example**

18 An amendment followed by '(commencement: 12 November 2006)' means that  
19 the amendment is taken to have commenced on 12 November 2006.

20 *Note* An example is part of the Act, is not exhaustive and may extend, but  
21 does not limit, the meaning of the provision in which it appears (see  
22 Legislation Act, s 126 and s 132).

23 **3 Legislation amended—schs 1 and 2**

24 This Act amends the legislation mentioned in schedules 1 and 2.

1 **4 Legislation repealed**

2 The following Acts are repealed:

3 (a) *Sexually Transmitted Diseases Act 1956* A1956-9;

4 (b) *Tuberculosis Act 1950* A1950-6.

1 **Schedule 1 Health Professionals Act 2004**

2 (see s 3)

3 **[1.1] Section 14**

4 *substitute*

5 **14 Who is a *health professional*?**

- 6 (1) A *health professional* is someone who provides a health service  
7 while working in a health profession.
- 8 (2) To remove any doubt, each of the following is a *health*  
9 *professional*:
- 10 (a) a dental hygienist;
  - 11 (b) a dental prosthetist;
  - 12 (c) a dental technician;
  - 13 (d) a dental therapist;
  - 14 (e) a dentist;
  - 15 (f) an enrolled nurse;
  - 16 (g) a medical practitioner;
  - 17 (h) a midwife;
  - 18 (i) a nurse;
  - 19 (j) an optometrist;
  - 20 (k) a pharmacist;
  - 21 (l) a physiotherapist;
  - 22 (m) a podiatrist;

- 1 (n) a psychologist;  
2 (o) a veterinary surgeon.

3 **[1.2] New section 17 (2)**

4 *insert*

- 5 (2) To remove any doubt, a person is also a *registered* health  
6 professional if the person is registered in a specialist area of a health  
7 profession.

8 **Example**

9 an enrolled nurse enrolled in the specialist area of enrolled nurse (medications)

10 *Note* An example is part of the Act, is not exhaustive and may extend, but  
11 does not limit, the meaning of the provision in which it appears (see  
12 Legislation Act, s 126 and s 132).

13 **[1.3] Section 23 (c)**

14 *substitute*

- 15 (c) requirements for admission to a specialist area (if any) within  
16 the profession; and

17 **[1.4] Section 39A**

18 *substitute*

19 **39A Definitions—pt 7**

20 In this part:

21 *non-presidential member*, of a health professions tribunal panel,  
22 means a member of the panel other than a presidential member.

23 *presidential member*, of the health professions tribunal, means—

- 24 (a) the president of the tribunal; or  
25 (b) a deputy president of the tribunal.

1 **[1.5] Section 40A (c)**

2 *substitute*

- 3 (c) non-presidential members chosen by a presidential member  
4 under section 42 (1) (b) to be on a health profession tribunal  
5 panel.

6 **[1.6] Sections 42 and 43**

7 *substitute*

8 **42 Health professions tribunal panel**

- 9 (1) A health professions tribunal panel for an application relating to a  
10 health professional in a health profession is formed by—

- 11 (a) a presidential member of the health professions tribunal; or

12 *Note* The president of the tribunal may give directions about the  
13 presidential member who is to be the presidential member of a  
14 particular health professions tribunal panel (see s 41C (2)).

- 15 (b) a presidential member of the health professions tribunal and  
16 2 non-presidential members chosen by the presidential member  
17 from the health professions representative list for the health  
18 profession.

- 19 (2) If a panel is formed under subsection (1) (b) for an application  
20 relating to a health professional in a health profession, at least  
21 1 member chosen from the health professions representative list  
22 must be in the same profession as the health professional.

23 **43 Health professions representative list**

- 24 (1) The president of the health professions tribunal must keep a list (the  
25 *health professions representative list*) of at least 10 people for each  
26 health profession nominated by the Minister.

- 27 (2) However, the Minister must not nominate a person under  
28 subsection (1) unless satisfied that the person has the experience or  
29 expertise to assist the health professions tribunal.

- 1 **43A Health professions tribunal panel may hear multiple**  
2 **applications**
- 3 (1) This section applies if—
- 4 (a) a health professions tribunal panel is formed under section 42  
5 for an application (the *first application*) relating to a health  
6 professional (the *subject health professional*) in a health  
7 profession; and
- 8 (b) the health professions tribunal receives another application (a  
9 *later application*) relating to a health professional regulated by  
10 the same health profession board as the subject health  
11 professional.
- 12 (2) If the requirements of section 42 (2) are met, the health professions  
13 tribunal panel for the first application may, but need not, deal with  
14 the later application.
- 15 *Note* The health professions tribunal president is responsible for ensuring the  
16 orderly and prompt discharge of the tribunal's business (see s 41C (1)).
- 17 **[1.7] New sections 44A and 44B**
- 18 *insert*
- 19 **44A What happens if presidential member unavailable after**  
20 **tribunal panel hearing started?**
- 21 (1) This section applies if a health professions tribunal panel formed  
22 under section 42 (1) (b) for an application in relation to a health  
23 professional in a health profession—
- 24 (a) starts to deal with the application; and
- 25 (b) the presidential member stops being available for the panel for  
26 any reason.

- 1 (2) If the parties to the application agree and the president of the  
2 tribunal does not give a direction under section 41C (Role of  
3 president of tribunal) to form a new panel to deal with the  
4 application, the application may be dealt with by the remaining  
5 members of the panel.

6 **44B What happens if non-presidential member unavailable**  
7 **after tribunal panel hearing started?**

- 8 (1) This section applies if a health professions tribunal panel formed  
9 under section 42 (1) (b) for an application in relation to a health  
10 professional in a health profession—  
11 (a) starts to deal with the application; and  
12 (b) a non-presidential member stops being available for the panel  
13 for any reason.  
14 (2) The presidential member and the remaining member (if any) may  
15 continue to deal with the application if the presidential member  
16 considers it appropriate to do so.

17 *Note* The presidential member decides questions of law arising in a  
18 proceeding (see s 63 (2)). If the presidential member and the remaining  
19 member of the health professions tribunal panel cannot agree about a  
20 question other than a question of law, the presidential member's  
21 decision is the decision of the tribunal (see s 63 (4)).

22 **[1.8] New paragraph 58 (2) (ca)**

23 *insert*

- 24 (ca) require a party to undergo stated medical, psychiatric or  
25 psychological assessment;

**[1.9] New section 59A***insert***59A Warrant for failure to appear**

- (1) If a person who is given a notice under section 59 (1) does not appear before the tribunal as required, the presidential member may issue a warrant to detain the person.
- (2) A warrant authorises—
- (a) the detention of the person named in the warrant; and
  - (b) the bringing of the person before the tribunal; and
  - (c) the detention of the person at the place stated in the warrant until the person is released by order of the tribunal.
- (3) A warrant may be executed by a police officer.
- (4) A police officer executing a warrant—
- (a) may, with necessary and reasonable assistance and force, enter any premises to detain the person named in the warrant; and
  - (b) must use the minimum amount of force necessary to detain the person and remove the person to the place stated in the warrant; and
  - (c) must, before removing the person, explain to the person the purpose of the warrant; and
  - (d) must bring the person before the tribunal as soon as possible.

**[1.10] Section 61 (5)***omit*

3 months

*substitute*

6 months

1 **[1.11] New section 62A**

2 *insert*

3 **62A Deciding applications for review of decision by board or**  
4 **panel**

5 (1) This section applies if the tribunal is deciding an application for  
6 review of a decision of a health profession board or a professional  
7 standards panel (the *original decision-maker*).

8 (2) The tribunal may exercise the functions given by this Act to the  
9 original decision-maker in relation to the application as if the  
10 decision had not been made.

11 **[1.12] New section 64 (1) (m)**

12 *insert*

13 (m) require the person to pay the reasonable costs of hearing the  
14 application.

15 **[1.13] Section 72 (2) (d)**

16 *substitute*

17 (d) the provision, by mail order, or over the internet or by other  
18 electronic means, of manufactured aids to rehabilitation or  
19 surgical prosthetics and orthotics; or

20 **[1.14] New section 72A**

21 *insert*

22 **72A False representation of person as health professional**

23 A registered health professional commits an offence if—

24 (a) the health professional represents that someone employed or  
25 engaged by the health professional is a registered health  
26 professional; and

- 1 (b) the representation is false; and  
2 (c) the representation was made in the course of practising as a  
3 health professional.  
4 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
5 both.

6 **[1.15] New section 73A**

7 *insert*

8 **73A Direction to engage in unprofessional conduct**

9 A person commits an offence if—

- 10 (a) the person—  
11 (i) employs a registered health professional; or  
12 (ii) provides premises where the registered health  
13 professional practises in the profession; and  
14 (b) the person directs the health professional to engage in conduct  
15 that, if engaged in, would contravene a standard of practice that  
16 applies to the health professional.

17 Maximum penalty: 50 penalty units.

18 **[1.16] New sections 75A and 75B**

19 *in part 8, insert*

20 **75A Sale of optical lenses**

21 (1) A person commits an offence if—

- 22 (a) the person supplies prescription spectacles or prescription  
23 contact lenses to someone else; and

- 1 (b) the person is not a registered optometrist.  
2 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
3 both.
- 4 (2) In this section:  
5 *prescription spectacles or prescription contact lenses* means  
6 spectacles (including sunglasses) or contact lenses prescribed in  
7 writing by a registered medical practitioner or registered  
8 optometrist.  
9 *supply* includes sell by mail order or over the internet.
- 10 **75B Standard of drugs**
- 11 (1) A registered pharmacist must not use or supply, or allow the use or  
12 supply of, drugs or medicine—  
13 (a) for drugs or medicine that are therapeutic goods—that do not  
14 conform with a standard applicable to the goods under the  
15 *Therapeutic Goods Act 1989* (Cwlth); or  
16 (b) for drugs or medicine (other than therapeutic goods) for which  
17 a standard is stated in the Australian Pharmaceutical  
18 Formulary—that are not of the standard required for the drugs  
19 or medicine in the Australian Pharmaceutical Formulary.  
20 Maximum penalty: 50 penalty units.
- 21 (2) Strict liability applies to subsection (1) (a) and (b).  
22 (3) In this section:  
23 *standard*, in relation to therapeutic goods—see the *Therapeutic*  
24 *Goods Act 1989* (Cwlth).

1            ***the Australian Pharmaceutical Formulary*** means the latest edition  
2            of the Australian Pharmaceutical Formulary, published by the  
3            Pharmaceutical Society of Australia (the ***PSA***), as amended by any  
4            amendments published by the PSA since the last edition.

5            ***therapeutic goods***—see the *Therapeutic Goods Act 1989* (Cwlth).

6            **[1.17] Section 129 (5)**

7            *substitute*

- 8            (5) An informed person need not divulge or communicate protected  
9            information to a court, or produce a document containing protected  
10          information to a court, unless it is necessary to do so for this Act,  
11          another territory law or another law applying in the ACT.

12          **[1.18] New part 13A**

13          *after section 129, insert*

14          **Part 13A                              Optometrists—authorisation for**  
15                                                   **possession and use of poisons**  
16                                                   **and restricted substances**

17          **129F            ACT Optometrists Board—reviewable decisions**

18          Each of the following decisions of the board is a ***reviewable***  
19          ***decision***:

- 20            (a) a decision under section 129C (1) to refuse to issue an  
21            optometrist drug authority;
- 22            (b) a decision under section 129C (3) to issue an optometrist drug  
23            authority subject to conditions;
- 24            (c) a decision under section 129C (4) to amend a condition of a  
25            registered optometrist's optometrist drug authority;

1 (d) a decision under section 129D (1) to issue an optometrist drug  
2 authority for a period less than the maximum period allowed  
3 under the ACT requirements;

4 (e) a decision under section 129D (2) to withdraw a registered  
5 optometrist's optometrist drug authority.

6 **129G ACT Optometrists Board—review of decisions**

7 Application may be made to the AAT for review of a reviewable  
8 decision.

9 **129H ACT Optometrists Board—notification of decisions**

10 (1) If the board makes a reviewable decision, it must give a written  
11 notice of the decision to each person affected by the decision.

12 (2) The notice must be in accordance with the requirements of the code  
13 of practice in force under the *Administrative Appeals Tribunal*  
14 *Act 1989*, section 25B (1).

15 (commencement: immediately before the commencement of the *Health*  
16 *Professionals Act 2004*, section 136 (1) (h))

17 **[1.19] New sections 130A to 130C**

18 *insert*

19 **130A Pharmacists—record of prescriptions**

20 (1) A registered pharmacist must keep a record of every prescription  
21 dispensed, compounded or made up by the pharmacist.

22 (2) The record must be made as prescribed by the *Poisons*  
23 *Regulation 1993*, section 4.

1 **130B Medical practitioner etc may dispense medicines**

2 A registered dentist, registered medical practitioner or registered  
3 veterinary surgeon may compound or dispense any medicine or drug  
4 for a patient or animal under his or her professional care without  
5 becoming a registered pharmacist.

6 **130C Restrictions on supply of certain medicines etc**

7 (1) A person commits an offence if—

8 (a) the person is not—

9 (i) a registered medical practitioner; or

10 (ii) an authorised nurse practitioner; or

11 (iii) acting in accordance with a registered medical  
12 practitioner's direct instructions to the person; and

13 (b) the person intentionally attends on, prescribes for, or supplies a  
14 substance or instrument to, someone else—

15 (i) for the treatment or cure of a sexual health condition  
16 (whether or not the other person has the condition); or

17 (ii) for menstrual problems; or

18 (iii) to influence the course of a pregnancy.

19 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
20 both.

21 (2) Absolute liability applies to subsection (1) (a) (i).

22 (3) Strict liability applies to subsection (1) (a) (ii) and (iii).

23 (4) Subsection (1) does not apply to—

24 (a) a registered pharmacist who dispenses a substance or  
25 instrument to someone else under a prescription given by a  
26 registered medical practitioner or authorised nurse practitioner;  
27 or

- 1 (b) a registered pharmacist who, in the ordinary course of the  
2 pharmacist's business, sells or supplies a substance or  
3 instrument (other than a substance or instrument prescribed by  
4 regulation) for a purpose other than a purpose mentioned in  
5 subsection (1) (b).
- 6 (5) In this section:
- 7 **authorised nurse practitioner** means a registered nurse practitioner  
8 who is the occupant of a nurse practitioner position acting within the  
9 scope of practice for the position.
- 10 **nurse practitioner position**—see the *Health Act 1993*,  
11 section 195 (2).
- 12 **scope of practice**—see the *Health Act 1993*, section 195 (2).
- 13 **sexual health condition** means—
- 14 (a) a sexually transmitted disease; or  
15 (b) a disease affecting a reproductive organ or function; or  
16 (c) impotence; or  
17 (d) an ailment relating to sexual intercourse.
- 18 **sexually transmitted disease** means—
- 19 (a) chancroid, chlamydial disease, donovanosis, gonorrhoea,  
20 HIV/AIDS, lymphogranuloma venereum or syphilis; or  
21 (b) a disease prescribed by regulation.
- 22 (commencement: on the commencement of the *Health Professionals Act 2004*,  
23 section 136 (1) (i))

- 1 **[1.20] New section 150L**
- 2 *insert*
- 3 **150L Nurses Act, s 82 (1) notice—transitional**
- 4 (1) The Legislation Act, section 19 (1) (e) (Contents of register) does
- 5 not apply to the following notifiable instruments:
- 6 • *Notice in accordance with section 82 of the Nurses Act 1988*
- 7 *NI2000-241*
- 8 • *Nurses (Decision of Board) Notice 2004 NI2004-208*
- 9 • *Nurses (Decision of Board) Notice 2004 (No 2) NI2004-454*
- 10 • *Nurses (Decision of Board) Notice 2005 NI2005-425.*
- 11 (2) This section expires on the day it commences.
- 12 (3) This section is a law to which the Legislation Act, section 88
- 13 (Repeal does not end effect of transitional laws etc) applies.
- 14 **[1.21] Section 151**
- 15 *substitute*
- 16 **151 Transitional regulations**
- 17 A regulation may prescribe savings or transitional matters necessary
- 18 or convenient to be prescribed because of the enactment of this Act
- 19 or the *Health Professionals Legislation Amendment*
- 20 *Act 2006 (No 2).*
- 21 **[1.22] Section 153**
- 22 *substitute*
- 23 **153 Expiry—pt 15**
- 24 This part expires on 9 January 2009.

1 **[1.23] Dictionary, new definition of *deals with***

2 *insert*

3 *deals with*, a matter—a health professions tribunal panel *deals with*  
4 a matter if the panel does 1 or more of the following:

5 (a) hears the matter;

6 (b) decides the matter;

7 (c) makes an order in relation to the matter;

8 (d) exercises any other function of the tribunal in relation to the  
9 matter.

10 **[1.24] Dictionary, new definition of *health professions*  
11 *representative list***

12 *insert*

13 *health professions representative list* means the list kept by the  
14 president of the health professions tribunal under section 43.

1 **Schedule 2**            **Other amendments**

2 (see s 3)

3 **Part 2.1**                    **Cemeteries and Crematoria**  
4 **Regulation 2003**

5 **[2.1] Section 9 (1) (b)**

6 *omit*

7 doctor or nurse

8 *substitute*

9 doctor, nurse or midwife

10 **Part 2.2**                    **Children and Young People Act**  
11 **1999**

12 **[2.2] Section 159 (1) (c)**

13 *substitute*

14 (c) a nurse; or

15 (ca) an enrolled nurse; or

16 (cb) a midwife; or

17 **[2.3] Dictionary, note 2, new dot points**

18 *insert*

- 19                    • enrolled nurse  
20                    • midwife  
21                    • nurse

1 **Part 2.3 Crimes Act 1900**

2 **[2.4] Section 76 (2)**

3 *substitute*

4 (2) A medical procedure has a genuine therapeutic purpose only if—

5 (a) performed on a person in labour, or who has just given birth,  
6 and for medical purposes connected with the labour or birth, by  
7 a doctor or midwife; or

8 (b) it is necessary for the health of the person on whom it is  
9 performed and is performed by a doctor.

10 **[2.5] Dictionary, note 2, new dot points**

11 *insert*

- 12 • doctor  
13 • midwife

14 **Part 2.4 Drugs of Dependence Act 1989**

15 **[2.6] Section 3 (1), note**

16 *substitute*

17 *Note 1* The Legislation Act contains definitions and other provisions relevant to  
18 this Act.

19 *Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- 20 • dentist  
21 • enrolled nurse  
22 • midwife  
23 • nurse  
24 • pharmacist  
25 • veterinary surgeon.

- 1 **[2.7] Section 3 (1), definitions of *enrolled nurse* and *nurse***  
2 *omit*
- 3 **[2.8] Section 43 (1) (b)**  
4 *substitute*  
5 (b) a nurse or midwife employed to provide first aid to workers in  
6 the course of their employment; or
- 7 **[2.9] Section 61 (2) (b) (ii)**  
8 *substitute*  
9 (ii) in a class 1 institution, if no pharmacist is available when  
10 the drug is required—a nurse or midwife in the  
11 institution.
- 12 **[2.10] Section 61 (3), (4) and (5) and section 84 (2)**  
13 *omit*  
14 or nurse  
15 *substitute*  
16 , nurse or midwife
- 17 **[2.11] Section 86 (1)**  
18 *substitute*  
19 (1) A doctor, pharmacist, nurse, midwife or health worker may apply to  
20 the chief health officer for approval to supply syringes.
- 21 **[2.12] Section 120 (4) (a) (i)**  
22 *substitute*  
23 (i) a doctor, intern, dentist, pharmacist, nurse or midwife; or

1 **[2.13] Section 160 (1), definition of *exempt person*,**  
2 **paragraph (c) (i) and (ii)**

3 *substitute*

- 4 (i) a doctor, intern, pharmacist, nurse or midwife; or  
5 (ii) a student nurse, or student midwife, who has completed  
6 the pharmacology units of his or her nursing or  
7 midwifery studies; or

8 **[2.14] Section 160 (1), new definitions**

9 *insert*

10 *student midwife* means a person who is conditionally registered as a  
11 midwife under the *Health Professionals Act 2004* while undertaking  
12 a midwifery course to achieve the standard required to be  
13 unconditionally registered as a midwife in the ACT.

14 *student nurse* means a person who is conditionally registered as a  
15 nurse under the *Health Professionals Act 2004* while undertaking a  
16 nursing course to achieve the standard required to be  
17 unconditionally registered as a nurse in the ACT.

18 **[2.15] Section 170 (1) (b)**

19 *substitute*

- 20 (b) a doctor, pharmacist, nurse or midwife employed within a  
21 class 1 institution or a class 2 institution acting in the course of  
22 his or her employment; or

23 **[2.16] Section 170 (3) (c)**

24 *omit*

25 nurse or

26 *substitute*

27 nurse, midwife or

1 **[2.17] Sections 171 (4) (d)**

2 *substitute*

3 (d) a doctor, pharmacist, nurse or midwife employed within a  
4 class 1 institution or a class 2 institution acting in the course of  
5 his or her employment; or

6 **[2.18] Section 173 (6) (b)**

7 *substitute*

8 (b) if the person is a doctor, intern, dentist, veterinary surgeon,  
9 pharmacist, nurse or midwife—the health profession board that  
10 has responsibility under the *Health Professionals Act 2004* for  
11 the registration of members of the person’s profession.

12 **Part 2.5 Firearms Act 1996**

13 **[2.19] Section 115 (4), definition of *health professional*,**  
14 **paragraph (a)**

15 *substitute*

16 (a) a doctor, psychologist, nurse, midwife or social worker;

17 **Part 2.6 Food Act 2001**

18 **[2.20] Section 145 (2)**

19 *omit*

20 this Act or another Act.

21 *substitute*

22 this Act, another territory law or another law applying in the ACT.

1    **[2.21]    Section 145 (4)**

2            *substitute*

- 3            (4) A person to whom this section applies need not divulge or  
4            communicate protected information to a court, or produce a  
5            document containing protected information to a court, unless it is  
6            necessary to do so for this Act, another territory law or another law  
7            applying in the ACT.

8            **Part 2.7                      Gene Technology Act 2003**

9    **[2.22]    Section 172 (4) (c)**

10          *substitute*

- 11          (c) state the day (not later than 28 days after the day the warrant is  
12          issued) that the warrant ceases to have effect; and

13   **[2.23]    New section 194 (3A)**

14          *insert*

- 15          (3A) However, the Minister is taken to have complied with this section if  
16          the Minister presents a copy of a Commonwealth independent  
17          review report to the Legislative Assembly not later than 5 years after  
18          the commencement of this Act.

19   **[2.24]    Section 194 (4), new definition of *Commonwealth***  
20   ***independent review report***

21          *insert*

22            ***Commonwealth independent review report*** means the report of an  
23            independent review of the Commonwealth Act undertaken under  
24            that Act, section 194 (Review of operation of Act).

1 **Part 2.8** **Health Act 1993**

2 **[2.25] New section 250**

3 *insert*

4 **250 Approval of facilities—transitional**

- 5 (1) To remove any doubt, anything done during the prescribed period in  
6 a medical facility, or a part of a medical facility, approved under a  
7 prescribed notified instrument is taken, for all purposes, to have  
8 been done in a medical facility, or part of a medical facility,  
9 approved under section 30D (1).

- 10 (2) In this section:

11 *prescribed notified instrument*—each of the following is a  
12 *prescribed notified instrument*:

- 13 (a) *Health (Medical Facilities) Approval 2006 (No 1)*,  
14 NI2006-289;
- 15 (b) *Health (Medical Facilities) Approval 2006 (No 2)*,  
16 NI2006-288;
- 17 (c) *Health (Medical Facilities) Approval 2006 (No 3)*,  
18 NI2006-287;
- 19 (d) *Health (Medical Facilities) Approval 2006 (No 4)*,  
20 NI2006-266.

21 *prescribed period* means—

- 22 (a) for an instrument mentioned in the definition of *prescribed*  
23 *notified instrument*, paragraph (a), (c) or (d)—the period  
24 starting on 7 July 2005 and ending on 31 July 2006; or
- 25 (b) for an instrument mentioned in the definition of *prescribed*  
26 *notified instrument*, paragraph (b)—the period starting on  
27 1 July 2004 and ending on 31 July 2006.

- 1 (3) This section expires on the day it commences.  
2 (4) This section is a law to which the Legislation Act, section 88  
3 (Repeal does not end effect of transitional laws etc) applies.  
4 (commencement: on the day after this Act's notification day)

5 **Part 2.9 Health Records (Privacy and**  
6 **Access) Act 1997**

7 **[2.26] Schedule 1, principle 12**

8 *substitute*

9 **Principle 12: Transfer of consumer to another health service**  
10 **provider or of health service provider to another**  
11 **practice**

- 12 1 If a consumer transfers from 1 health service provider (the *first*  
13 *provider*) to another health service provider (the *second provider*)—  
14 (a) the consumer may ask the first provider to give the second  
15 provider the consumer's health record; and  
16 (b) the first provider—  
17 (i) must give the second provider the consumer's record or a  
18 copy of the record; and  
19 (ii) may also give the second provider a written summary of  
20 the consumer's health record.  
21 2 If a health service provider transfers from 1 practice (the *first*  
22 *practice*) to another practice and a consumer continues to see the  
23 provider—  
24 (a) the consumer may ask the first practice to give the provider the  
25 consumer's health record; and

- 1 (b) the first practice—  
2 (i) must give the provider the consumer’s record or a copy  
3 of the record; and  
4 (ii) may also give the provider a written summary of the  
5 consumer’s health record.
- 6 3 The fee chargeable for giving a health record, or a copy or written  
7 summary of a health record, under this principle is—  
8 (a) if a fee has been determined under section 34 for this  
9 principle—the determined fee; or  
10 (b) in any other case—nil.

## 11 **Part 2.10 Juries Act 1967**

### 12 **[2.27] Schedule 2, part 2.2, item 5**

13 *substitute*

- 5 a practising nurse, practising enrolled nurse or practising  
midwife

## 14 **Part 2.11 Legislation Act 2001**

### 15 **[2.28] Dictionary, part 1, new definitions**

16 *insert*

17 ***enrolled nurse***—

- 18 (a) means a person unconditionally enrolled as a nurse under the  
19 *Health Professionals Act 2004*; and  
20 (b) for an activity, includes a person conditionally enrolled as a  
21 nurse under the *Health Professionals Act 2004* to the extent  
22 that the person is allowed to do the activity under the person’s  
23 conditional registration.

- 1                    *midwife*—
- 2                    (a) means a person unconditionally registered as a midwife under
- 3                    the *Health Professionals Act 2004*; and
- 4                    (b) for an activity, includes a person conditionally registered as a
- 5                    midwife under the *Health Professionals Act 2004* to the extent
- 6                    that the person is allowed to do the activity under the person’s
- 7                    conditional registration.

## 8                    Part 2.12                    Optometrists Act 1956

### 9                    [2.29]                    Part 4A, heading

10                    *omit*

11                    (commencement: immediately before the commencement of the *Health*

12                    *Professionals Act 2004*, section 136 (1) (h))

### 13                    [2.30]                    Section 45A heading

14                    *substitute*

### 15                    129A                    Definitions—pt 13A

16                    (commencement: immediately before the commencement of the *Health*

17                    *Professionals Act 2004*, section 136 (1) (h))

### 18                    [2.31]                    Section 45A, definition of *ACT requirements*

19                    *substitute*

20                    *ACT requirements*—see section 129B.

21                    (commencement: immediately before the commencement of the *Health*

22                    *Professionals Act 2004*, section 136 (1) (h))

1 **[2.32] Section 45A, new definition of *board***

2 *insert*

3 *board* means the ACT Optometrists Board established under the  
4 *Health Professionals Regulation 2004*, schedule 11.

5 (commencement: immediately before the commencement of the *Health*  
6 *Professionals Act 2004*, section 136 (1) (h))

7 **[2.33] Sections 45A to 45E (as amended)**

8 *relocate to Health Professionals Act 2004, part 13A as sections*  
9 *129A to 129E*

10 (commencement: immediately before the commencement of the *Health*  
11 *Professionals Act 2004*, section 136 (1) (h))

12 **Part 2.13 Physiotherapists Act 1977**

13 **[2.34] Section 3 (1), definition of *nurse***

14 *omit*

15 **[2.35] Section 3 (2)**

16 *after*

17 *nurse,*

18 *insert*

19 *enrolled nurse, midwife,*

1           **Part 2.14                      Prostitution Act 1992**

2           **[2.36]      Dictionary, definition of *sexually transmitted disease***

3           *substitute*

4           *sexually transmitted disease* means—

- 5           (a) chancroid, chlamydial disease, donovanosis, gonorrhoea,  
6                 HIV/AIDS, lymphogranuloma venereum or syphilis; or  
7           (b) a disease prescribed by regulation.

8           **Part 2.15                      Public Health Act 1997**

9           **[2.37]      Section 76 (1) (b) and (c)**

10          *substitute*

- 11          (b) for any other place—enter the place at any time with the  
12                 consent of the occupier, or in accordance with a warrant issued  
13                 under section 80 or section 81.

14          **[2.38]      New section 100 (1A)**

15          *insert*

- 16          (1A) However, the Minister must not make a determination under  
17                 subsection (1) unless the Minister believes, on reasonable grounds,  
18                 that the determination is necessary to protect public health.

19          **[2.39]      Section 101 (1)**

20          *substitute*

- 21          (1) The chief health officer may declare, in writing—  
22                 (a) a disease or medical condition to be a notifiable condition; and  
23                 (b) a disease mentioned in paragraph (a) or section 100 (1) (a) to  
24                 be a transmissible notifiable condition.

1 (1A) However, the chief health officer must not make a declaration under  
2 subsection (1) unless the chief health officer believes, on reasonable  
3 grounds, that the declaration is necessary to protect public health.

4 **[2.40] New section 115A**

5 *insert*

6 **115A Public health direction—confinement**

7 (1) This section applies if the chief health officer gives a public health  
8 direction under section 113 (1) (e) requiring a person who has a  
9 transmissible notifiable condition, or a contact of the person, (the  
10 ***confined person***) to be confined to a stated place for a stated period.

11 (2) The chief health officer must review the public health direction not  
12 later than 48 hours after the confined person was first confined  
13 under the direction.

14 **Part 2.16 Public Health Regulation 2000**

15 **[2.41] New section 9 (2) (ba) and (bb)**

16 *insert*

17 (ba) an enrolled nurse;

18 (bb) a midwife;

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2006.

**2 Notification**

Notified under the Legislation Act on 2006.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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